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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,452	12/09/2003	Shane Taghavi	2504-018	4421

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EXAMINER

NAKARANI, DHIRAJLAL S

ART UNIT PAPER NUMBER

1773

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,452

Applicant(s)

TAGHAVI, SHANE

Examiner

D. S. Nakarani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 9-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/16/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Applicant's election of Group I, claims 1-8, 25 and 26, in the reply filed on January 13, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 9-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 13, 2005.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-3 stand rejected under 35 U.S.C. 102(b) as being anticipated by Candida et al (U.S. Patent 4,897,274) for the reasons of record set forth in paragraph 10 of the Office Action mailed August 17, 2004 (Paper No. 20040708).
5. Claims 1-3 stand rejected under 35 U.S.C. 102(b) as being anticipated by Childress (U.S. Patent 6,479,138) for the reasons of record set forth in paragraph 11 of the Office Action mailed August 17, 2004 (Paper No. 20040708).

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6. Claims 1-8, 25 and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Childress (U.S. Patent 6,479,138) for the reasons of record set forth in paragraph 12 of the Office Action mailed August 17, 2004 (Paper No. 20040708).

7. Receipt of Information Disclosure statement file November 16, 2004 is acknowledged and has been made of record.

8. Applicant's arguments filed January 13, 2005 have been fully considered but they are not persuasive. In reference to rejection of claims 1-3, under 35 USC §102(b) as being anticipated by Candida et al (U.S. Patent 4,897,274), applicant mainly argue that claim 1 is directed to a five layer shrink film. The two outer layers are polyethylene layers. Paragraphs 24, 25 and 30 of the specification describe properties of polyethylene polymers and polyethylene layer. Specifications describe polystyrene polymer in paragraphs 21 and 22 of the specifications for the polystyrene core layer. Specifications describe polystyrene compatibilizing layers in paragraph 33. The term polystyrene compatibilizing layer refers to a layer of polymer composition that improves adhesion between two polymer layers at least one of which is a polystyrene layer.

These arguments are unpersuasive because the description of polyethylenic layer forming polymer includes very low-density linear polyethylene of Candida et al. The description of polystyrene layer includes Candida et al's butadiene/styrene copolymer. The intermediate layers of Candida et al's bonds outer layers to the core

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layer meet claimed definition. There is nothing on record showing that the modified EVA of Candida et al does not have bonding properties required in the instant invention.

In reference to rejection of claims 1-3, under 35 USC 102(b) as being anticipated by Childress (U.S. Patent 6,479,138), applicant mainly argue that it is not clear which part of the disclosure is being relied on by the Examiner to teach the utilization of two polymer layers that defined as polystyrene compatibilizing layers improving adhesion between the two polymer layers. Further, it is not clear where the Childress reference teaches the utilization of a substantially random interpolymer made in accordance with the disclosure of Cheung et al.

These arguments are unpersuasive because the rejection clearly show composition of intermediate layers of adhesive such as an ethylene-vinyl acetate copolymers, a blend of very low density polyethylene and ethylene vinyl acetate copolymer (column 7, line 65 to column 8, line 8). There is nothing on record showing that Childress' intermediate layers of adhesive do not have required adhesive properties. Claimed invention is not limited Cheung et al's substantially random interpolymer for the claimed polystyrene compatibilizing layers.

In reference to rejection of claims 1-8, 25 and 26 under 35 USC § 103(a) as being unpatentable over Childress, applicant argues that the Examiner makes the assertion that given the teaching of Childress, a person of ordinary skill in the art at the time of this invention made would have found it obvious to optimize physical properties of a multilayer film by varying composition and/or proportion of individual layer for the given applications. It is not clear to applicant how the reasoning can be applied to a 35

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USC § 103(a) rejection. The standard is that there should be some motivation to vary the teaching of a reference. It is clear that Childress fails to disclose the claimed proportions and claimed composition of intermediate layers.

These arguments are unpersuasive because Childress clearly teaches core layer between 40% and 70% of the total film thickness (column 6, line 65 to column 7, line 2), outer layers 2 and 3 each comprise between 10% and 25% (Column 7, lines 53-55). Childress teaches intermediate layers 14 and 15 between 10% and 25% (column 8, lines 13-15). These disclosed limitation encompasses claimed proportions. Furthermore, given these teaching, a person of ordinary skill in the art at the time of this invention would have found it obvious to optimize proportions of individual layers and compositions for the given application.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

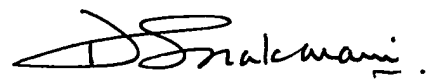
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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D.S. Nakarani whose telephone number is (571) 272-1512. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.S. Nakarani/dh  
April 8, 2005

  
**D. S. NAKARANI**  
**PRIMARY EXAMINER**